



CLOSED CASE SUMMARY

ISSUED DATE: MARCH 23, 2022

FROM: INTERIM DIRECTOR GRÁINNE PERKINS
OFFICE OF POLICE ACCOUNTABILITY

CASE NUMBER: 2021OPA-0282

Allegations of Misconduct & Director's Findings

Named Employee #1

Allegation(s):		Director's Findings
# 1	5.001 – Standards and Duties. 10. Employees Will Strive to be Professional	Sustained
Imposed Discipline		
Written Reprimand		

This Closed Case Summary (CCS) represents the opinion of the OPA Director regarding the misconduct alleged and therefore sections are written in the first person.

EXECUTIVE SUMMARY:

It was alleged that the Complainant made an unprofessional statement during the arrest of the Subject.

SUMMARY OF INVESTIGATION:

Named Employee #1 (NE#1) and other officers were dispatched to a store in response to a trespass call. While there, they observed an individual – the Subject in this case – walking out of the store with merchandise while being followed by a store employee. The store employee pointed to the Subject and identified that he was shoplifting. Officers told the Subject to stop but he did not do so and fled from the store. The officers followed and caught up to the Subject. They ultimately used force to take the Subject down to the ground where he further resisted the officers.

While on the ground, the Subject stated to NE#1: “Why you on top of me bro?” NE#1 responded: “Cause I told you to stop and you didn’t, for one.” The Subject denied that NE#1 was talking to him at the time of the order to stop. NE#1 replied: “So not only are you a thief, you’re a fuckin’ liar.” NE#1 and the other officer then handcuffed the Subject.

This incident was later reviewed by OPA, and it was identified that NE#1’s statement to the Subject, which included the use of profanity, may have violated SPD’s professionalism policy. This investigation ensued.

OPA interviewed NE#1. He acknowledged making the statement. He said that he believed that the Subject was lying to them. He further stated that he and other officers repeatedly dealt with similar conduct at that store, which frustrated him. However, he noted that, in his experience, “using harsh language often is useful for gaining compliance.” NE#1 confirmed that, at the time of the statement, the Subject was under control, even though he was not yet in handcuffs. NE#1 told OPA that it was possible that making this statement could unnecessarily escalate the incident. He said that he did not remember whether he intended the statement to be an insult but said that he potentially meant it to be derogatory.



ANALYSIS AND CONCLUSIONS:

Named Employee #1 - Allegation #1

5.001 – Standards and Duties. 10. Employees Will Strive to be Professional

SPD Policy 5.001-POL-10 requires that SPD employees “strive to be professional at all times.” The policy further instructs that “employees may not engage in behavior that undermines public trust in the Department, the officer, or other officers.” (SPD Policy 5.001-POL-10.) The policy further states the following: “Any time employees represent the Department or identify themselves as police officers or Department employees, they will not use profanity directed as an insult or any language that is derogatory, contemptuous, or disrespectful toward any person.” (*Id.*) Lastly, the policy instructs Department employees to “avoid unnecessary escalation of events even if those events do not end in reportable uses of force.” (*Id.*)

OPA has consistently found that using profanity directed as an insult or using derogatory or contemptuous language towards a detainee violates policy. This is particularly the case when the situation is under control and where there is no exigency at the time of the statement.

In OPA’s estimation, NE#1 calling the Subject both a thief and a “fucking liar” was purposed as an insult and was both derogatory and contemptuous. Moreover, the statement was made once any exigency had subsided, and the scene was under control. Given this, OPA concludes that NE#1’s statement violated policy and recommends that this allegation be Sustained.

Recommended Finding: **Sustained**